



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,870	10/14/2003	Jason R. Melvin	P-US-TN 09374	4800

7590 06/29/2004

Michael P. Leary, Group Patent Counsel
Black & Decker Corporation
Mail Stop TW199
701 E. Joppa Rd
Towson, MD 21286

EXAMINER

NGUYEN, DUNG V

ART UNIT	PAPER NUMBER
----------	--------------

3723

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/684,870

Applicant(s)

MELVIN ET AL.

Examiner

Dung V Nguyen

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 March 2004.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-9, 13 and 14 is/are rejected.
7) ☒ Claim(s) 10-12 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/14/03.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: typo error, paragraph [0034], lines 3 and 4, "threaded rod" and "second end" have the same reference number "64". Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-9, 13 and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bergler (USPN 3,431,686). Bergler discloses a sanding frame for supporting a portable powered sander 1 with a movable abrasive surface 5 comprising a base 9 having a first surface and a second surface and the base 9 substantially in a plane, a leg 42 selectively connectable to the base 9 for supporting the base 9 in an orientation wherein the plane of the base 9 is planar parallel to the ground, a rod assembly pivotably connected to the base 9 for movably supporting the sander 1, an adjustment mechanism 12 connected to the base 9 and to the rod assembly for pivoting the rod assembly, wherein the rod assembly includes a recess defined by the base 9, a bearing 17 located in the recess and defining a bore, a pivot pin 15 having a first end and second end, the first end rotateably supported in the bore, a pivot arm 10 having a first end and a second end, the first end connected to the second end of the pivot pin 15, a

Art Unit: 3723

rod 13 connected to the second end of the pivot arm 10, wherein the rod 13 is pivotable out of the plane of the base 9, a spring 19 for biasing the rod 13 towards the plane of the base 9, wherein the adjustment mechanism 12 includes a yoke 26 connected to the base 9 and defining a bore, a threaded rod 21 having a first end and second end, extending through the bore of the yoke 26, a collar 22 connected to the rod assembly and to the first end of the rod 21, a knob 32 engaged to the rod 21 for drawing the rod 21 through the yoke 26, a spring 27 coaxial with the rod 21. Bergler also inherently discloses a method for converting a sanding frame into a stand for a portable sander 1 with a movable abrasive surface comprising providing a sanding frame 9 and a leg 42, mounting the sander 1 to the frame 9, attaching the leg 42 to the sander frame 9 so that the movable abrasive surface 5 of the sander 1 is exposed for access (note Fig. 1-9, col. 2, line 39 to col. 4, line 44).

Allowable Subject Matter

4. Claims 10-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung V Nguyen whose telephone number is 703-305-0036. The examiner can normally be reached on M-F, 6:30-3:00.

Art Unit: 3723

6. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail can be reached on 703-308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

7. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DVN

June 23, 2004



**DUNG VAN NGUYEN
PRIMARY EXAMINER**